

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

Donald Pate,

Case No. 1:13CV125

Petitioner

v.

**ORDER**

Christopher LaRose,

Respondent

This is a habeas corpus case under 28 U.S.C. § 2254. Petitioner raises several challenges *pro se* to his conviction in Cuyahoga County, Ohio, on two counts of armed robbery.

The Magistrate Judge has filed an Report and Recommendation suggesting the petition should be dismissed because it is untimely. (Doc. 17). On *de novo* review, I agree, and I adopt the Report and Recommendation as the Order of this Court, dismiss the petition with prejudice, and deny a certificate of appealability.

The jury, on the basis of ample evidence, found that the petitioner and another had robbed two women, the petitioner having put his weapon to one victim's head and told her he would blow her brains out if she did not give him her purse. He was caught shortly after the robbery; when found, he was holding the victim's purse, which he had tried to throw over a fence. The victims identified the petitioner as one of their assailants immediately after his arrest.

The State Court of Appeals affirmed in part and remanded in part for resentencing.

The respondent argued, and the Magistrate Judge found, that the petitioner has filed his petition outside the one-year statute of limitations applicable to habeas petitions.

The Magistrate Judge's assessment of the record of petitioner's various unavailing and untimely, and often self-help procedural ploys, is thorough and accurate. That assessment and evaluation clearly supports the Magistrate Judge's conclusion that the petition is untimely and the petition must be dismissed.

It is not necessary for me to repeat that assessment in this Order, which incorporates the Magistrate Judge's Report and Recommendation *in toto*.

There is no merit whatsoever to the petition. It is, accordingly,

ORDERED THAT:

1. The Magistrate Judge's Report and Recommendation (Doc. 17) be, and hereby is adopted as the Order of this Court;
2. The petition for a writ of habeas corpus (Doc. 1) be, and the same hereby is dismissed, with prejudice; and
3. No certificate appealability will issue because petitioner has not made a substantial showing of the denial of a constitutional right, and reasonable judges could not debate that the petition is untimely.

So ordered.

/s/ James G. Carr  
Sr. U.S. District Judge